



Ohio Legislative Service Commission

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Fiscal Note & Local Impact Statement

Bill: H.B. 268 of the 131st G.A. (LSC 131 1031-4) **Date:** April 25, 2016
Status: In House Judiciary **Sponsor:** Reps. Hall and Dever

Local Impact Statement Procedure Required: No

Contents: Records expungement and intervention in lieu of conviction

State Fiscal Highlights

- The state's GRF may gain, at most, a minimal amount of revenue annually from a portion of the \$50 record expungement fee for additional expungement applications.

Local Fiscal Highlights

- The records expungement provision will have a minimal annual fiscal effect on local criminal and juvenile justice systems, as there will be some gain in fee revenues and a minimal increase in time and effort for courts to expunge additional delinquency and criminal records.
- There may be a relatively small increase in the number of persons granted intervention in lieu of conviction, the cost of which for any given county or municipality is likely to be no more than minimal annually.

Detailed Fiscal Analysis

The bill (1) allows for expungement of any conviction records if a person is convicted of certain sex offenses resulting from being a human trafficking victim, (2) provides for the expungement any human trafficking-related offense that did not result in conviction and establishes a procedure to approve or deny expungement, and (3) authorizes intervention in lieu of conviction for certain offenses committed while a victim of compelling prostitution. Due to the relatively small population of identified victims of human trafficking, the fiscal effect on state and local criminal and juvenile justice systems is likely to be minimal at most annually.

Expungement of delinquency and criminal records

The bill broadens the scope of records that may be expunged for a person (adult or juvenile) convicted of solicitation, loitering to engage solicitation, or prostitution as a victim of human trafficking. Under current law, any person convicted of these offenses as a victim of human trafficking may apply to the sentencing court for the expungement of these specified records. Under the bill, a person convicted of these offenses may apply to the sentencing court for the expungement of any record of conviction if participation in the offense is a result of the person being a victim of human trafficking.

In addition, the bill authorizes expungement of records regarding any offense for which a person was found not guilty if the finding was result of the person having been a human trafficking victim. According to the 2015 Ohio Attorney General's Office Human Trafficking Annual Report, 203 potential victims of human trafficking were identified in 2015.

Under the bill, a small number of additional persons will be eligible to apply for expungement. Expungement applicants, unless indigent, are required to pay a \$50 fee. The \$50 application fee is divided between the state GRF (\$30) and the county or municipality (\$20). The annual costs for local criminal and juvenile justice systems to handle a potential increase in expungement requests will be minimal at most, with the application fee likely to offset all, or some portion, of those costs.

The bill also establishes a procedure to approve or deny an application to expunge aforementioned records, including notice to the prosecutor, a hearing, and determination by the court. Given the relatively small number of new records eligible for expungement under the bill, any additional costs for local sentencing courts will be minimal at most annually.

Intervention in lieu of conviction

The bill allows a victim of compelling prostitution to request intervention in lieu of conviction (ILC) when charged with certain offenses¹ in the same manner as current law provides when certain factors may have led to the offense: alcohol or drug usage, mental illness, intellectual disability, or the offender was a victim of human trafficking. LSC conversations with subject matter experts suggest that victims of compelling prostitution may already commonly be granted ILC at the judge's discretion, indicating the bill is widely codifying current practice in this regard. This suggests that any cost for any given municipality or county will be minimal annually, as the likely number of additional persons granted ILC would be relatively small.

Synopsis of Fiscal Effect Changes

The substantive difference between the fiscal effects of the substitute bill (LSC 131 1031-4) and the As Introduced version is as follows:

- The substitute bill removes the penalty enhancements for the offenses of compelling and promoting prostitution that were part of the As Introduced version. As a result of those penalty enhancements, the Department of Rehabilitation and Correction's (DRC) GRF-funded incarceration costs may have increased, given that the possibility of longer prison terms for certain prostitution-related offenders would have produced a "stacking effect." The result was that, over the course of five to six years after the bill's effective date, DRC's annual incarceration costs may have slowly increased before peaking at possibly as much as around \$1.9 million per year.

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¹ These offenses include: theft, unauthorized use of a motor vehicle, passing bad checks, misuse of credit cards, forgery, and/or nonsupport or contributing to nonsupport of dependents.